

The Financial Aspects Of Divorce

Barton E. Bernstein

When considering divorce as an option to an unhappy marriage, basic finances are of prime importance. Family counselors and attorneys must inform their clients as to practical guidelines regarding projected income, expenses, and their future standard of living. Time and preparation are essential to ease the transition from married to single life.

A counselor and an attorney can work together as a team, and can inform their clients about possible post-divorce problems that could complicate the financial situation of both spouses. They should also inform their clients about the methods commonly used to conserve and effectively use the funds that will be available to both parties. Therefore, should the divorce option be exercised, the man and woman both proceed with the full knowledge of the financial consequences and hazards.

GETTING A REALISTIC VIEW

It's important to remember that money is not a dirty word. When two persons think about divorce, a consideration of the financial problems involved is not only appropriate, but essential. The purpose of divorce is to change one's personal status from one of unhappiness to one of happiness. If the change can bring on only unhappiness, frustration, and despair, perhaps a reconsideration of divorce and the divorce process is appropriate.

In my experience, most family counselors—which in this context includes psychologists, social workers, and other members of the "helping professions"—are neither money- nor business-oriented. The counseling

Barton E. Bernstein is an attorney in Dallas. He also is an adjunct assistant professor of social work and law at the Graduate School of Social Work, the University of Texas, Arlington.

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David Street

procedure continues from beginning to end without a realistic view of finances, either during the marriage or in the event of a divorce. Even lawyers in an adversary proceeding emphasize the potential divorce in terms of what can be obtained through negotiation or trial. But rarely do most attorneys look past the divorce and talk frankly with their clients about what happens the morning and the years after.

The purpose of this article is to focus attention on the facts and to suggest guidelines for consideration. Then the options available become realistic rather than theoretical.

INCOME AND EXPENSES

The wife should first assemble her financial data and analyze her actual and potential income as follows. Only net, after tax, spendable money should be considered.

Income Source	Amount
1. Employment	\$.....
+ 2. Interest, oil royalties, trusts, stocks, bonds, real estate, family or parents' contribution	\$.....
+ 3. Other	\$.....
+ NET SPENDABLE INCOME	\$.....
+ 4. Anticipated contribution by former spouse	\$.....
= TOTAL SPENDABLE INCOME	\$.....

In our hypothetical case, a budget for the wife and children should then be created. (See chart.) Each item's allotment should be as close to the actual money required as possible, even if this involves a review of one's

Table 1
Chart of Expenses To Be Considered In Divorce

	Total Household	Mother	Children
Family Services	\$.....	\$.....	\$.....
Shelter:	\$.....	\$.....	\$.....
Gas	\$.....	\$.....	\$.....
Water	\$.....	\$.....	\$.....
Electricity	\$.....	\$.....	\$.....
Telephone	\$.....	\$.....	\$.....
Food	\$.....	\$.....	\$.....
Clothing	\$.....	\$.....	\$.....
School Supplies	\$.....	\$.....	\$.....
School Lunches	\$.....	\$.....	\$.....
Gasoline	\$.....	\$.....	\$.....
Automobile Repair	\$.....	\$.....	\$.....
Reserve for Replacement of Automobile	\$.....	\$.....	\$.....
Household Items	\$.....	\$.....	\$.....
Automobile Insurance	\$.....	\$.....	\$.....
Life Insurance	\$.....	\$.....	\$.....
Major Medical Insurance	\$.....	\$.....	\$.....
Disability and Retirement	\$.....	\$.....	\$.....
Memberships	\$.....	\$.....	\$.....
Dancing Lessons	\$.....	\$.....	\$.....
Music Lessons	\$.....	\$.....	\$.....
Writing Lessons	\$.....	\$.....	\$.....
Gifts	\$.....	\$.....	\$.....
Doctor	\$.....	\$.....	\$.....
Dentist	\$.....	\$.....	\$.....
Beauty Shop	\$.....	\$.....	\$.....
Education	\$.....	\$.....	\$.....
Tuition	\$.....	\$.....	\$.....
Books	\$.....	\$.....	\$.....
Furniture & Appliances	\$.....	\$.....	\$.....
Repair	\$.....	\$.....	\$.....
Replacement	\$.....	\$.....	\$.....
Vacations	\$.....	\$.....	\$.....
Entertainment	\$.....	\$.....	\$.....
General House & Yard Repair	\$.....	\$.....	\$.....
Taxes (other than income)	\$.....	\$.....	\$.....
Other	\$.....	\$.....	\$.....
Other	\$.....	\$.....	\$.....
Other	\$.....	\$.....	\$.....
Other	\$.....	\$.....	\$.....
TOTAL	\$.....	\$.....	\$.....



For the purposes of illustration, we will consider a marriage in which the couple has three children, two cars, and one four-bedroom house. Assume the parties are considering a divorce, and the family counselor is talking with the wife. All parties agree that she will be the managing conservator and will have custody of the children. The husband will be the possessory conservator with rights of visitation. What may the woman expect? What financial considerations must she analyze as she proceeds? Where might she be one, five, ten years after the divorce has been granted? What contingent plans are available? Let us look first at some factual data.

checkbook for an entire year, or keeping an expense ledger in minute detail for a few months.

Certain expenses, such as food, clothing, transportation, and entertainment, will be lower with the spouse gone. Others, such as shelter, utilities, children's medical and schooling expenses, car payments, insurance, and property taxes, will remain the same regardless of who or how many occupy the home.

The wife should complete the expense chart using the best available data. Only the "Total Household" column on the chart is truly relevant, although other figures are helpful. This column assumes all family income goes into a common fund, and that expenses for the wife and children are to be expended from this fund.

After completing the chart, the wife must then relate income to expenses. If her income exceeds expenses, the woman is independent and need not worry unduly about the financial consequences of the divorce. If the expenses exceed her income, then either:

- The husband must supplement the wife's income so as to enable her to maintain a consistent budgeted standard of living, or
- The wife must consider a standard of living in relation to her income.

Once expenses are related to income, the wife will know whether there is a need for additional income to meet expenses. If the available supplement from her husband is sufficient to meet projected expenses, she can proceed relatively comfortably, assuming that her income plus the husband's supplement will enable her to maintain the quality of life she projects for herself and her children.



However, if the expenses exceed the wife's income plus the husband's supplement (which will include child support and/or alimony), then the problem is clear. Where can the wife cut corners? What will she sacrifice? Can the family counselor, the attorney, and the wife, by working together, arrive at an agreeable living standard acceptable to her and her children?

Everyone involved should face tomorrow's problems today and be prepared. Family counselors and a myriad of churches, junior colleges, and community colleges offer adjustment seminars and creative divorce workshops. Although financial adjustment is crucial, it is often ignored. No businessperson remains in business long without a projection of expected income and expenses and the data that will forecast profits and/or losses. Likewise, the woman in our hypothetical example must

plan. Then—when and if the divorce is granted—she can step from married to single financial life.

Lack of planning ensures that the wife would proceed naively, assuming that something would happen to enable her to maintain her living standard. Then, when the miracle failed to occur and provide the needed funds, she would feel frustrated and bitter, and this could hamper her adjustment to single life.

THE SPOUSE'S CONTRIBUTION

Husbands in every state are obligated to pay child support, and in many states they will be required to pay alimony.

Likewise, if the father is awarded custody of the children, the woman may be obligated to contribute child support, and in some recent cases, women have been required to pay some alimony. For the sake of example, let us continue to use our hypothetical case, in which the husband would be making the child support and alimony payments. If the payments he is required to make are too high, he will suffer; he may refuse to pay and may abandon his family or become the object of endless litigation.

If the payments are not high enough, his former wife and children will have to sacrifice and do without items they have come to expect over the years.

A balance must be struck that provides the best possible allocation of available funds.

ESTIMATING CHILD SUPPORT

One of the most difficult items to calculate in divorce settlements is the amount of child support that should be paid.

Some of the best information that can be used as a guideline for determining child support has been prepared by the Family Economics Research Group of the Science and Education Administration of the U.S. Department of Agriculture. Some of this information was published in 1979 as a "User's Guide to USDA Estimates of the Cost of Raising a Child." This material has been expanded and updated, and the research group is now preparing a new bulletin titled "USDA Estimates of the Cost of Raising a Child: A Guide to Their Use and Interpretation." The bulletin will be published in early 1981 and can be obtained without cost by writing:

U.S. Department of Agriculture
Family Economics Research Group
Federal Building, Room 340
6505 Belcrest Road
Hyattsville, MD 20782

These cost estimates represent average annual expenditures for a child ranging from birth to age 18. They are based on the spending patterns of two-parent families in which there are children of those ages. Eight budget areas are covered:

- Food at home
- Food away from home
- Housing
- Transportation
- Medical care
- Education
- Clothing
- All other items.

The estimates are based on the geographic region where the family lives, and on whether the family resides in an urban or rural area.

The estimates are broken down into four "cost levels" that are based on the family's spending patterns, which can then be cross-referenced with the family's income level.

One of the advantages of these estimates is that they can be adjusted to conform to changes in prices using the Consumer Price Index. The estimates are used as guidelines by judges and attorneys in setting child support payments, and are also used by educators, researchers, and financial advisors.

The husband and wife in our hypothetical example can use these guidelines to assist in determining how much money will be needed to support their three children. Then, using the wife's household-expense and projected income charts, they can arrive at an idea of how much the husband's contribution will have to be to maintain an acceptable standard of living for the wife and children.

The husband should make his own income chart so he can determine how much spendable income he will have for himself. He should do it on a monthly basis, using his gross monthly earnings, since child support probably will be figured on that basis:

1. Employment (gross monthly earnings)	\$.....
+ 2. Interest, oil royalties, trusts, stocks, bonds, real estate	\$.....
-- Withholding and Social Security	\$.....
= NET INCOME	\$.....
- Child Support	\$.....
= NET SPENDABLE INCOME	\$.....

WORKING OUT CHILD SUPPORT

When the husband has completed this chart, he will know exactly what his monthly spendable income will be. To do this, he should also make his own household expense chart. Then he will be able to plan what type of life style he wants and can afford.

In one sense, the husband without custody can plan more easily than his former spouse because there are fewer variables. His apartment rent can include all utilities. There are no repair bills on unforeseen breakdowns of appliances. He can plan his entertainment and will not be involved in the children's myriad school activities—which are necessary, but costly (nickels and dimes, perhaps, but expenses nevertheless).

As his ex-wife might lament, "With three children, there is always something." The husband will have expenses, but they will be more controllable and more predictable.

As the husband analyzes his own income chart, he must decide what corners might be cut without sacrificing so much that life doesn't seem worth living. To avoid frustration and bitterness, the budget must be worked and reworked, and a new life style must be evolved and accepted. The husband can eliminate many expenses on his household chart, but cannot, in good

conscience, look at the money allocated to the children as the reason he must make some sacrifices. A reduction in both parties' standard of living usually is a natural consequence of a divorce proceeding.

If the couple is working with a family counselor, this person can assist the husband in two ways. The counselor can help him face the problem squarely and work toward resolving the postdivorce financial situation.

Second, the counselor can help motivate the husband to want to contribute to the support of the children, as he would be doing if the couple remained married. It's important that a man pay equitable child support because he wants to, not because he is forced to. If a man does not seem motivated to support his children, there is always the question of whether he will send support checks—even if ordered to do so by the court, and even if the payments would not result in undue financial difficulties.



What are the remedies if a man refuses to pay and (a) is dragged into court for contempt every few years, (b) moves to another jurisdiction, or (c) disappears?

Although the enforceability varies from one jurisdiction to another, a safe general rule is that efforts to force support payments must usually be abandoned in the long run. To pursue an ex-husband for years requires a certain amount of money and a determined and dedicated woman. For effective support, a man must be honorably self-motivated and want to contribute.

INCREASING CHILD SUPPORT

A few words must be said about the need for increasing child support in cases where the couple is already divorced and the child support established by the court is now inadequate.

Inflation has turned the nuclear family into a struggling entity, striving to keep its head above the whirlpool of increasing prices and the declining purchasing power of the dollar.

For the single parent who may have been divorced even two or three years ago, the child support award may seem ludicrous today. It may be hardly enough to buy major items of importance.

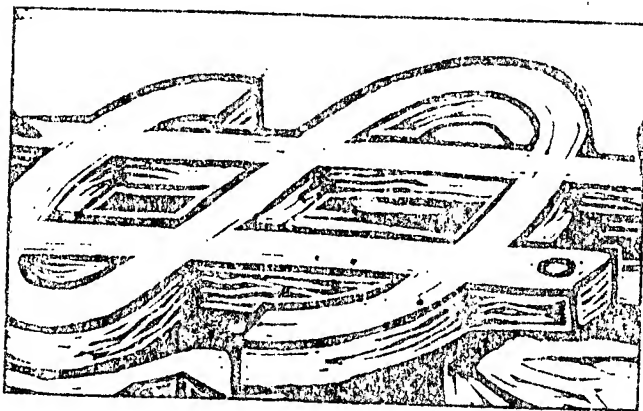
The law does offer a remedy. It is, sometimes awkward, often expensive, and usually unpleasant. It's called a motion to modify.

in Texas, for example. Section 16.03 of the Texas Family Code provides for the support of a child or children if the circumstances of the child—or the circumstances of a person affected by the order or decree—have materially and substantially changed since the entry of the order or decree.

Inflation itself may be a factor, but the court also will consider the changing circumstances of the former husband, the needs of the child or children, and the situation of the former wife. The final decision rests with the judge, who has broad discretionary powers in this area, and who usually strives to reflect the economic situation of the times and the family involved.

What could—or should—custodial parents do to keep current in today's volatile economy? Again, let's go back to our hypothetical family.

If, after the divorce, the woman finds that life is a struggle, she should review her own budget and her former husband's income at the time of the divorce and now. If he is earning substantially more, perhaps a phone call or letter might persuade him to increase the support payments voluntarily. Any increase, even if voluntarily made, should be reflected in a court order.



If a personal approach did not work, the woman would have to consult an attorney. She should be prepared for an argument. The only proper way to increase income from child support is through a periodic motion to modify. This places all the former spouses' and children's finances before the court, together with the relevant information concerning the children's needs. The judge then makes a decision as to whether the support should be increased. Filing a motion to modify remains an option for the custodial parent until the youngest child reaches the age of eighteen or is otherwise considered legally emancipated.

OTHER CONSIDERATIONS

In addition to child support and its ramifications, there are other factors that must be considered when a husband and wife are trying to work out the financial details of a divorce agreement:

- How will the total financial picture change if either of the parties remarries, has children by a new spouse, or becomes disabled?

• What happens if the wife dies? Has the deceased person provided for insurance, and is it payable directly to the deceased person's former partner? If it is payable to the children, it will necessitate a costly and cumbersome guardianship arrangement that will have to be legally established.

- What opportunities are there now for the wife to improve her position in the job market while the couple still is together? Finishing a high school, junior college, university, or professional degree would be helpful. So would a secretarial or trade school course. Assembling a working wardrobe before the divorce also will help. One major consideration here is whether the couple can "tough it out" long enough for the wife to get the training that will improve her financial prospects. Is now the time to get a divorce, or should they wait and balance the present difficulties with future advantages the wife would receive?
- Is there something special about either spouse that will affect the whole picture—wealthy parents, a terminal illness, a genetic flaw, a huge financial windfall that is expected in the future, or a secure retirement income?

ALLOCATION OF INCOME

Some special circumstances should be considered regarding the allocation of income and the other financial considerations of a divorce.

The first is the right to expectancy. Where one of the parties is sure to inherit by will or by trust, and a substantial inheritance will be received from a third party, the finances can be adjusted to accommodate the receipt of those funds.

The second circumstance regards life insurance. Many states have statutes that provide for child support payments to cease on the death of the payor. The payee needs protection in the event of this contingency, and a helpful provision is a declining-balance life insurance policy to provide for substitute support.

The third consideration involves medical insurance. Some individuals have catastrophic illnesses, such as diabetes or chronic kidney disease, that require thousands of dollars worth of care each year. These payments often are covered by the spouse's major medical insurance, but this coverage ceases in the event of a divorce. Few new policies will pay for this pre-existing condition, and the divorced spouse is therefore virtually uninsurable.

WHAT ARE THE OPTIONS?

The options of marriage and divorce and the factors involved are affected by all pertinent data relating to the parties. Income, expenses, supplements, and other complicating factors affect the final decision. Divorce has never been a panacea. Rather, divorce provides a different life style that depends on the circumstances in which one finds oneself.

Money is one consideration, and it is not a trivial one.

(See FINANCES, p. 43)

Finances from p. 20

Money provides the means by which necessities are provided and luxuries become available. Many a family counselor and attorney have counseled both parties through the divorce process and then lost track of their mutual client. Years later, in a casual meeting, the counselor or lawyer might hear the plaintive remark, "If I only had known that single life is not all it is represented to be."

Some clients may be reluctant to do the necessary paperwork and to accept the results, but both family counselors and lawyers owe their clients adequate representation. This cannot be done without an analysis of the finances involved.

When the standard of living is to be reduced, the client can be assisted in the task of assigning priorities to all expense items and then adjusting to these priorities.

Both family counselors and lawyers can assist in determining possible ways to save money. For example, they can work as a team to determine whether renting or purchasing a home is financially more beneficial. They can help clients consider moving from high-priced stores to lower-priced stores. They can help clients explore the horrendous charges in revolving charge accounts and can show that a person can save a great deal of money each year by going on a cash basis or a 30-day account basis.

Counselors and lawyers also can review the advantages of having a small economy car, shopping at sales, eliminating junk food, and perhaps applying for food stamps. They can help clients explore inexpensive entertainment—such as public parks, zoos, and other services provided by states, counties, and cities. They can tell clients to look to church groups, schools, and other organizations that provide inexpensive or free entertainment.

An informed parent can reduce expenditures ten to twenty percent simply by being aware of the everyday possibilities for cutting costs.

PREPARING FOR A NEW LIFE STYLE

Everyone facing a divorce talks about tightening their belts in a general way. Few actually plan for a new life style, and hardly anyone approaches the divorce by putting a pencil to paper and figuring income and expenses as an accountant would.

The forms and charts that accompany this article are meant to facilitate the systematic organization of data so future income and expenses can be projected. Once these data are assembled, a man or woman—especially with the help of a counselor and a lawyer working as an interdisciplinary team—can take a step towards evaluating the long-range view of their lives and finances as single persons. This is a necessity for deciding whether, how, and when a divorce should be approached. And such a serious decision involving so many lives deserves mature, thoughtful, and complete financial planning. ☐

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